

## REMARKS

In response to the Office Action dated August 1, 2005 ("the Action"), Applicant respectfully requests reconsideration based on the above claim amendments and the following remarks. This Amendment is submitted with a Request for Continued Examination. Applicant respectfully submits that the claims are in condition for allowance. Original Claims 1-29 and 34-45 are pending in the application. Claims 30-33 have been canceled previously in response to a restriction requirement.

### I. The 35 USC §112 Rejections

Claims 1-29 and 34-45 stand rejected under 35 USC §112, second paragraph, as being indefinite for use of certain terms, such as "mechanical elasticity", "mechanical ultimate strength" and "elasticity". Although Applicant disagrees with the Examiner's position, the noted claims have been amended for clarification of the claimed subject matter in a non-narrowing manner to obviate the indefiniteness rejections and advance prosecution. For example, the term "mechanical elasticity" has been amended to recite "compressive modulus of elasticity" as discussed in multiple places in the specification.

### II. The New Claims

In order to form a more complete claim set for the application, Applicant has added new Claims 46-71. Entry and consideration of these claims is respectfully requested. Applicant respectfully submits that the claims are supported by the specification and/or figures. Claims 46 and 47 are dependent upon base Claims 1 and 43, respectively. Support for the new dependent claims can be found in the figures and in the specification at, *inter alia*, para. 26, 46-49.

The subject matter of new independent Claim 48 is illustrated in the figures and in the specification at, *inter alia*, at para. 47-49 and para. 24. Support for Claims 49 and 50 can be found, for example, at para. 48. Support for Claim 51 can be found, for example, at para. 41, 52-53. Support for Claims 52-54 can be found, for example, at Ex. 4 and Ex. 7, and para. 26,

and original Claims 10, 11 and 29. Support for Claim 55 can be found, for example, at para. 50. Support for Claim 56 can be found in the figures and, for example, at para. 46. Support for Claim 57 can be found, for example, at Figure 4 and para. 40. Support for Claim 58 can be found, for example, at para. 52, 53 and 56. Support for Claim 59 can be found at, for example, the figures and para. 46. Support for Claim 60 can be found, for example, at para. 24 and 46. Support for Claim 61 can be found, for example, at para. 46. Support for Claim 62 can be found, for example, at Examples 1, 2 and original Claim 1.

Support for the second new independent claim, Claim 63, can be found, for example, in the figures, at Example 1, original Claim 43, and at para. 47, para. 22, and para. 24. Support for Claim 64 can be found, for example, at para. 22. Support for Claim 65 can be found, for example, at para. 24, 45. Support for Claim 66 can be found, for example, in the figures, at original Claim 11, para. 51 and para. 56. Support for Claims 67 and 68 can be found in Original Claim 1 and para. 46, 47. Support for Claim 69 can be found, *inter alia*, at para. 48, 54 and Figure 4. Support for Claim 70 can be found, for example, at para. 50. Support for Claim 71 can be found, for example, at Figure 4 and para. 54.

In view of the foregoing, Applicant respectfully requests examination of the new claims.

### III. Information Disclosure Statement

Applicant is submitting a Supplemental Information Disclosure Statement ("IDS") with Form PTO-1449. The IDS includes art cited in the corresponding pending PCT application. A copy of the initialed PTO Form 1449 indicating consideration of the references is requested.

### IV. Change of Attorney of Record and Assignment

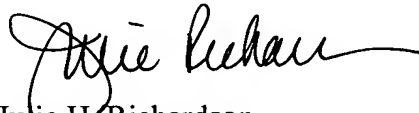
Applicant notes that a Request for a Change in Attorney of Record was submitted on October 31, 2005, a copy of which is attached for ease of reference. In addition, an assignment from the inventor, Dr. David Ku, to Salumedica, LLC, and an assignment from SaluMedica, LLC to SpineMedica, Corp. have been recorded with the USPTO. Thus, the current Assignee of record is SpineMedica Corp.

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### CONCLUSION

Accordingly, Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. The Examiner is encourage to telephone the undersigned at 919-854-1400 for resolution of any outstanding issues.

Respectfully submitted,



Julie H. Richardson  
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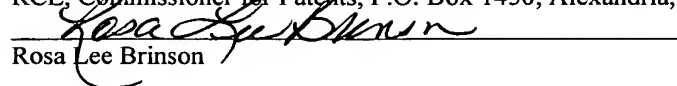
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Rosa Lee Brinson